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February 7, 2002

Docket Management System
U.S. Department of Transportation
Room Plaza 401
400 7th Street, SW
Washington, DC 20590
FRA 2001-11068

This is to submit comments in reference to the December 11, 2001 Notice of Proposed Rulemaking (NPRM) concerning application of the Federal Railroad Administration (FRA) drug and alcohol testing regulations to employees of foreign railroads who are based outside of the United States and perform train or dispatch services in the United States.

The Drug and Alcohol Testing Industry Association (DATIA) is a 1,000-member national trade association representing the full spectrum of drug and alcohol testing service agents including laboratories, collection sites, C/TPAs, BATs, MROs, SAPs, and testing device manufacturers. DATIA's mission includes working closely with key policy makers in Federal Agencies and in Congress to ensure that the interests of the industry are heard and taken into account when changes in drug and alcohol testing rules are proposed. DATIA works to ensure that these changes foster rather than hinder the industry's growth. DATIA further works to educate the industry on current standards of service and regulatory policies and procedures. In response to the FRA's invitation for comment, DATIA offers the following comments on behalf of its members.

DATIA suggests that the FRA, much like the Federal Motor Carrier Safety Administration (FMCSA), require that all persons performing safety sensitive duties within the U.S. for the railroads are subject to the FRA drug and alcohol testing regulations regardless of where the company is domiciled. Furthermore, foreign railroad foreign based (FRFB) employees who perform train service and/or dispatch service outside of the U.S., but that control or affect train movement in the U.S., should also be subject to the FRA drug and alcohol testing regulations. Regardless of where an employee's company is located, or where the employee is physically located, if the employee is performing safety sensitive duties that directly affect the safety of railroad operations in the US, he/she should be required to comply with the FRA drug and alcohol testing regulations.

The purpose of the drug and alcohol testing regulations established by the Department of Transportation is to provide for increased transportation safety for residents of the U.S. It is important to the American people that these safety provisions be upheld regardless of whether or not the person being covered by the regulations is a U.S. resident or whether they are located in the U.S. The FRA supports DATIA's stance by stating in the NPRM that large portions of its drug

and alcohol-testing regulations do not apply to foreign-based employers and that “If such employees are impaired by alcohol or drugs, they can jeopardize the safety of United States railroad operations.”

DATIA appreciates this opportunity to comment on the proposed rule changes being considered by the FRA. Should you seek further clarification or have any questions concerning DATIA’s comments, please feel free to contact me at 703-548-0901 or datia@wpa.org.

Sincerely,

A handwritten signature in black ink, reading "Laura E. Shelton". The signature is fluid and cursive, with the first name "Laura" being more prominent and the last name "Shelton" following in a similar style.

Laura E. Shelton
Executive Director